



Bulletin

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FARM ANIMAL AND MACHINERY EXCISE

TO: Local Officials

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

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SUBJECT: Optional Assessment of Farm Animal and Machinery Excise

This *Bulletin* discusses a new option regarding local assessment of the farm animal and machinery excise (farm excise) that was enacted as part of the 2008 Dairy Preservation Act. St. 2008, c. 310, § 2.

I. Annual Assessment of Farm Excise

Each year, local assessors must assess an excise to individuals and non-corporate entities principally engaged in agriculture, or minors involved with youth agricultural programs such as 4-H and Future Farmers of America, for the value of their animals, machinery and equipment. G.L. c. 59, § 8A. This excise is assessed at a rate of \$5 per \$1000 of value. It is assessed instead of a personal property tax on the animals, machinery and equipment. See G.L. c. 59, §5(21). As with the boat and motor vehicle excise, assessors are required to assess those individuals and entities subject to the farm excise.

II. Optional Assessment of Farm Excise

Under a new provision added to the farm excise statute, the voters of a city or town may approve a referendum to have the assessors stop assessing the excise for subsequent years.

A. Placing the Referendum on Election Ballot

The referendum is placed before the voters by a two-thirds vote of the "local appropriating authority" as defined in G.L. c. 59, § 21C for purposes of Proposition 2½. "Local appropriating authority" in that statute means the board of selectmen (not town meeting) in a town, the city council, with the mayor's approval where required by law, in a city, and the town council in a municipality with a council form of government. G.L. c. 59, § 21C(a).

B. Election Procedure

The new provision does not address election procedure. Therefore, it appears that the usual laws and procedures relating to municipal elections apply. The referendum may appear on any regular or special municipal election ballot and the municipal clerk must receive written notice of the referendum at least 35 days before the date of the election. G.L. c. 54, § 42C. The vote to place a question on the ballot must take place in sufficient time to meet this advance notice requirement.

The [Office of the Secretary of State](#) is responsible for administering and enforcing municipal election laws. Specific questions about the application of these laws to this referendum should be directed to the Elections Division of that office at 617-727-2828.

C. Form of Question

The new provision does not specify the form of the referendum. The following is recommended:

Shall the city/town of _____ cease assessing the excise imposed under General Laws Chapter 59, Section 8A on certain animals, machinery and equipment owned by individuals and non-corporate entities principally engaged in agriculture?

Yes _____ No _____

D. Approval of Question

The new provision does not specify the quantum of vote required to approve the referendum. Since no supermajority is specified, however, it appears the referendum will be approved if a majority of the people voting on the question vote "yes."

E. Effect of Approval

An approved measure will be effective beginning with the next annual farm excise assessment. The excise for a year is usually assessed in the fall and is due and payable in a single installment on November 1 or 30 days after the bill is mailed, whichever is later. Therefore, a city or town that seeks to stop assessing the excise beginning in a particular year would have to present the referendum to the voters and obtain approval before the assessors commit that year's excises. Taxpayers will continue to be liable for annual excises committed before approval of the referendum.

The new provision applies to the farm excise assessed to all individuals or non-corporate entities principally engaged in agriculture, not just those engaged in dairy farming. Once the referendum is approved, the assessors will stop assessing all farm excises.

In addition, persons and non-corporate entities ordinarily assessed the excise on their farm animals, machinery and equipment will continue to be exempt from any personal property taxes on that property. The new provision does not expressly exempt that farm property from property taxes and the property tax exemption for the property under G.L. c. 59, §5(21) appears to be linked to the property being subject to the excise instead. Nevertheless, given the overall purpose of the Dairy Preservation Act to aid the farming industry and improve its economic viability and competitiveness through tax relief and other measures, we believe the intent of the new option, if approved, is to eliminate any local taxes on this property.

F. Reimposition of Excise

The new provision does not address whether the city or town may by referendum or otherwise reimpose the excise at a later time. Since it is not an acceptance statute, the usual revocation provisions of G.L. c. 4, § 4B do not appear applicable. Municipal counsel should be consulted as a home rule petition may be needed to reimpose the excise.

If you have any questions, please contact the Bureau of Municipal Finance Law legal staff at 617-626-2400.